

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KATHERINE SCOTT, et al.,
Plaintiffs,
v.
AT&T INC., et al.,
Defendants.

Case No. [19-cv-04063-SK](#)

**ORDER REGARDING DISCOVERY
DISPUTE**

Regarding Docket No. 94

The parties filed a joint discovery letter brief to address their dispute regarding the scope of Plaintiffs’ Katherine Scott, Carolyn Jewel, and George Pontis (“Plaintiffs”) jurisdictional discovery. Defendants AT&T Services, Inc. and AT&T Mobility, LLC (“Defendants”) agreed to allow Plaintiffs to take jurisdictional discovery only, but they now disagree about the scope of jurisdictional discovery. The Court GRANTS IN PART and DENIES IN PART Plaintiffs’ request for jurisdictional discovery.

Plaintiffs, customers of Defendants’ wireless services, bring this putative class action suit for Defendants’ actions in selling Plaintiffs’ “location data” or “geolocation information” to data aggregators and other third parties without Plaintiffs’ consent and for misrepresenting the manner in which Defendants would treat Plaintiffs’ data. (Dkt. No. 1.) Plaintiffs allege:

AT&T works with location data aggregator companies which specialize in the commercial sale of location data for widespread purposes. AT&T uses these aggregators . . . to manage the sale of its data to thousands of entities – including bail bondsmen, bounty hunters, and prison officials – who routinely access and use the data without customer knowledge or consent, and without any emergency 911 basis.

(Dkt. No. 1, ¶ 4.) Plaintiffs also name as defendants other companies to which Defendants sold this data. (Dkt. No. 1, ¶ 19.) Plaintiffs bring six claims against Defendants: (1) violations of the

1 Communications Act, 47 U.S.C. § 201 *et seq.*, (2) violation of California’s Unfair competition
 2 Law, Cal.Bus.&Prof. Code § 17200 *et seq.*, (3) intrusion upon seclusion, (4) violation of
 3 California’s Constitutional right to privacy, (5) negligence, and (6) violation of California’s
 4 Consumer Legal Remedies Act, Cal.Civ.Code § 1750 *et seq.* Plaintiffs seek an injunction to
 5 prevent further disclosure of that information.

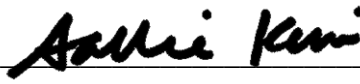
6 Defendants filed a motion to compel arbitration and a motion to dismiss for lack of
 7 jurisdiction. (Dkt. Nos. 35, 73.) Defendants argue that Plaintiffs lack standing to seek injunctive
 8 relief because Defendants stopped providing location data or geolocation information to third
 9 parties on March 29, 2019. (Dkt. Nos. 73, 73-1.) Plaintiffs then moved to take jurisdictional
 10 discovery and move the deadlines for the motions. (Dkt. No. 81.) The parties then reached an
 11 agreement in which Plaintiffs were allowed to take jurisdictional discovery before responding to
 12 the motion to dismiss for lack of standing.

13 The parties dispute the scope of the Plaintiffs’ Complaint and thus the scope of the
 14 jurisdictional discovery. As pleaded, Plaintiffs allege harm based on Defendants’ practice of
 15 selling data to third parties – aggregators and other entities. Plaintiffs here seek additional
 16 information about potential future harms based on speculation alleged in the Complaint that
 17 Defendants may harm Plaintiffs by disclosing information in some other manner – such as a data
 18 breach based on poor practices to ensure privacy – to other third parties. (Dkt. No. 1 (Compl.), ¶¶
 19 147, 153, 156, 279(h).) Those allegations in the Complaint about speculative harm are not based
 20 on any fact but rather on a concern about a potential threat that has not occurred and for which
 21 Plaintiffs have no evidence to support a current claim. In contrast, the concerns Plaintiffs raise
 22 about the actual disclosure of data to third parties are based on fact, and the Court will base the
 23 scope of jurisdictional discovery on the actual claims in the Complaint, supported by facts and not
 24 by speculation. The only relevant issue before the Court on Defendants’ motion to dismiss
 25 Plaintiffs’ requests for injunctive relief for lack of standing is whether Defendants have stopped
 26 selling “location data” or “geolocation information” to third parties. Plaintiffs have issued 32
 27 requests for production of documents. (Dkt. No. 95-1.) The Court has reviewed them and finds
 28 that none of them are targeted to this jurisdictional issue: did Defendants stop selling location data

1 or geolocation information to third parties? For this reason, the Court will allow Plaintiffs, by July
2 21, 2020, to issue new requests for production of documents targeted to that issue. To the extent
3 that this Order disrupts the schedule for briefing the pending motion to dismiss, the Court will
4 entertain a stipulation from the parties regarding a new briefing schedule or, if the parties cannot
5 agree on a schedule, they must contact the Court to set a Case Management Conference so that the
6 Court can consider the competing proposals for a new schedule.

7 **IT IS SO ORDERED.**

8 Dated: July 8, 2020

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11 SALLIE KIM
12 United States Magistrate Judge

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